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Paper No. 4

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MAILED
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PETITIONS OFFICE

In re Application of	:	
Steven E. Koenck	:	
Application No. 08/415,075	:	DECISION GRANTING
Filed: March 30, 1995	:	PETITION
Attorney Docket No. 35717YA	:	

This is a decision on the petition filed July 13, 1995, requesting that the above-identified application be accorded the filing date on which the papers were sent via Express Mail. Petitioner also requests that Figures 1-27 be added to the above-identified application.

The application was deposited on March 30, 1995 with an unexecuted declaration. However, on May 12, 1995, Application Processing Division mailed a "Notice" stating that drawings 1-27 were missing and that the filing date of the application would be the date of the receipt of the missing drawings. The application filing fee and an oath or declaration in compliance with 37 CFR 1.63 were also required.

In response, the present petition, including an authorization to charge counsel's deposit account for the petition fee, was filed wherein it is argued that Figures 1-27 described in the above-identified application were incorporated by reference into the specification of this application by the incorporation of U.S. Patent Nos. 4,709,202, 4,885,523 and 5,278,487. Petitioner requests that the application be accorded a filing date of March 30, 1995.

As the application, as filed, incorporated by reference Figures 1-17 of U.S. Patent 4,709,202; Figures 18-23 and 25-27 of U.S. Patent 5,278,487 and Figure 24 of U.S. Patent 4,885,523 on pages 2, 7 and 8 of the application, the later submission of Figures 1-27 does not raise the issue of new matter. Since it is now clear

that drawings of Figures 1-27 described in this application were present on filing, albeit in different patent applications, the application may be accorded a filing date of March 30, 1995.

In view of the above, the petition is granted. Although Figures 1-27 are sufficient for the above-identified application to be accorded a filing date of March 30, 1995, Figures 1-27 are considered informal.

The petition fee of \$130.00 will not be refunded since the present petition and petition fee were necessary in view of applicant's filing error.

The preliminary amendment filed July 13, 1995 will be entered in due course.

Receipt is acknowledged of a declaration and an authorization to charge counsel's deposit account for the surcharge and filing fees filed July 13, 1995.

However, the application still lacks the \$750.00 filing fee and the additional claim fee of \$152.00, as required in the "Notice" of May 12, 1995.

The application is being forwarded to the Office of Finance for charging \$1,142.00 (\$130.00 for the petition fee, \$130.00 for the surcharge and \$882.00 for the application filing fee) to counsel's deposit account No. 19-4882.

Thereafter, this application will be returned to Application Division for further processing with a filing date of March 30, 1995, using the application papers including Figures 28 and 29 filed March 30, 1995, the executed declaration filed July 13, 1995 and Figures 1-27 filed July 13, 1995, and for an indication on the file wrapper, that twenty (20) sheets of drawings were present on filing.

Telephone inquiries related to this decision should be directed to the Office of Petitions Staff at (703) 305-9282.



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